

Sixth Appellate District

San Jose, California

MONDAY, DECEMBER 2, 2002

H024355 PEOPLE v. MACIAS

The judgment is affirmed. (not published)  
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J.,  
Mihara, J.)  
Filed December 2, 2002

H024092 In re CHEYENNE Q.; DFCS v. ROBERT Q.

The orders appealed from are affirmed. (not published)  
(Wunderlich, J.; We concur: Premo, Acting P.J., Rushing, J.)  
Filed December 2, 2002

TUESDAY, DECEMBER 3, 2002

The Court met in its courtroom at 333 West Santa Clara  
Street, Suite 1060, San Jose, California. Present: Premo, Acting  
P.J.; Wunderlich, J.; Rushing, J.; and Beth Miller, Deputy Clerk.

H023297 PEOPLE v. GARIBAY

Cause called and argued by James W. Duffy appearing for  
Appellant and by Aileen Bunney, Deputy Attorney General,  
appearing for Respondent. Cause ordered submitted.

H024277 PEOPLE v. GARIBAY

Cause called and argued by James W. Duffy appearing for  
Appellant and by Aileen Bunney, Deputy Attorney General,  
appearing for Respondent. Cause ordered submitted.

H024082 PEOPLE v. MARCOS H.

Cause called and argued by James W. Duffy appearing for  
Appellant and by William Kuimelis, Deputy Attorney General,  
appearing for Respondent. Cause ordered submitted.

Rushing, J. leaves the bench and Elia, J. takes the bench.

H022917 PEOPLE v. KIM

Cause called and argued by Kathleen W. Novoa appearing for  
Appellant and by William M. Kuimelis, Deputy Attorney General,  
appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, December 3, 2002 (Continued)

H023285 AMERICAN BUILDING AND ROOFING, INC., et al. v. REGISTRAR OF CONTRACTORS, et al.

Cause called and argued by Douglas B. Allen appearing for Appellants and by Wilbert E. Bennett appearing for Respondents. Cause ordered submitted. Court is in recess until 1:30.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, Acting P.J.; Elia, J.; Rushing, J.; and W. Magsaysay, Deputy Clerk.

H023535 PEOPLE v. LEGGE

Cause called and argued by Alexander Lambrous appearing for Appellant and by Eric D. Share, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H022916 PEOPLE v. DIAZ

Cause called and argued by Emry J. Allen appearing for Appellant and by Ronald E. Niver, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H023810 IN RE NATHANIEL R., A MINOR

Cause called and argued by Stuart Fishman appearing for Appellant and by Teri L. Robinson, Deputy County Counsel, appearing for Respondent Department of Family and Children's Services. Cause ordered submitted.

H023934 DRAGO v. CITY OF SUNNYVALE

Cause called and argued by Alison Berry Wilkinson appearing for Appellant and by Eileen Dizon appearing for Respondents. Cause ordered submitted.

H024176 GRANT v. HEIR

Cause called and argued by appellant George Grant, appearing in pro per and by respondent Kummel Heir, appearing in pro per. Submission is deferred for a period of 10 days from today's date. Respondent shall advise the court by letter that arrangements have been made with the Trustee appointed by the Bankruptcy Court for the return of appellant's funds plus applicable interest. Thereupon, the cause will be submitted. Court is adjourned.

Sixth Appellate District

San Jose, California

Tuesday, December 3, 2002 (Continued)

H023213 PEOPLE v. ZAMGOLA

The judgment is modified to reflect a conviction of the lesser included offense of lewd conduct in count 1. In all other respects, the judgment is affirmed. (not published)  
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Elia, J.)

Filed December 3, 2002

H024326 PEOPLE v. MORALES

The judgment is affirmed. (not published)  
(Elia, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed December 3, 2002

H023658 CHUNG v. YEW

By the Court\*:

Appellant's petition for rehearing is denied.

Filed: December 3, 2002

\*Before Premo, Acting P.J., Elia, J. and Rushing, J.

H023734 BUDGET RENT A CAR CORPORATION v. COREGIS INSURANCE COMPANY, et al.

By the Court\*:

Appellants' petition for rehearing is denied.

Filed: December 3, 2002

\*Before Bamattre-Manoukian, Acting P.J., Mihara, J. and Rushing, J.

WEDNESDAY, DECEMBER 4, 2002

H024197 PEOPLE v. DRANE

The judgment is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Wunderlich, J., Rushing, J.)

Filed December 4, 2002

Sixth Appellate District

San Jose, California

Wednesday, December 4, 2002 (continued)

H023029 BONO v. CLARK, as Executor

The judgment is reversed, and the cause is remanded to the trial court for further proceedings.

(1) On remand, with respect to the first cause of action of plaintiff's complaint, the trial court shall determine whether the community-funded capital improvements to decedent's separate real property enhanced its equity value.

(a) If the court determines that the improvements did not contribute to equity, then the community is entitled to reimbursement only. In that case, the court shall award plaintiff judgment in the amount of one-half of the community funds spent in capital improvements to decedent's separate property.

(b) If the court determines that the improvements contributed to an increase in the property's equity value, then the community will be entitled to a *pro tanto* interest in the property. The community interest is calculated by (i) determining the ratio that the community investment bears to the total investment in the property; then (ii) multiplying that ratio by the appreciation in the property's equity value during the marriage, excluding pre-improvement and post-separation appreciation. In such case, the court shall award plaintiff judgment of one-half of the amount calculated as the community's *pro tanto* interest.

(2) On remand, with respect to the second cause of action of plaintiff's complaint, the court shall enter judgment for defendant.

Plaintiff shall have costs on appeal. (published)  
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J.,  
Rushing, J.)

Filed December 4, 2002

Sixth Appellate District

San Jose, California

Wednesday, December 4, 2002 (continued)

H023808 PEOPLE v. MILLER

The judgment is affirmed. (not published)  
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J.,  
Mihara, J.)  
Filed December 4, 2002

H023196 PEOPLE v. CASTRENCE

By the Court\*:

Appellant's petition for rehearing is denied.  
Filed: December 4, 2002  
\*Before Bamattre-Manoukian, Acting P.J., Wunderlich, J. and  
Mihara, J.

H022196 PEOPLE v. PARKER

The judgment is reversed. (not published)  
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)  
Filed December 4, 2002

THURSDAY, DECEMBER 5, 2002

The Court met in its courtroom at 333 West Santa Clara  
Street, Suite 1060, San Jose, California. Present: Premo, Acting  
P.J.; Elia, J.; Rushing, J.; and R. W. Norvelle, Deputy Clerk.

H021676 PEOPLE v. ROGERS

Cause called and argued by Edward Mahler appearing for  
Appellant and by Thomas A. Brady, Deputy Attorney General,  
appearing for Respondent. Cause ordered submitted.

H023698 CUCUZZA v. CITY OF SANTA CLARA

Cause called and argued by Robert D. Baker appearing for  
Appellant and by Linda A. Tripoli appearing for Respondent.  
Cause ordered submitted. Court is adjourned.

H022576 PEOPLE v. WRIGHT

The judgment is affirmed. (not published)  
(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J.,  
Mihara, J.)  
Filed December 5, 2002

Sixth Appellate District

San Jose, California

Thursday, December 5, 2002 (Continued)

H024227 PEOPLE v. LE

The judgment is affirmed. (not published)  
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Elia, J.)

Filed December 5, 2002

FRIDAY, DECEMBER 6, 2002

H023759 In re Jonathan B., et al; DFCS v. S. B.

H023998 In re Jonathan B., et al; DFCS v. S. B.

H024049 In re Jonathan B., et al; DFCS v. S. B.

H023854 In re Jonathan B., et al; DFCS v. S. B.

H023918 In re Jonathan B., et al; DFCS v. S. B.

H024122 In re Jonathan B., et al; DFCS v. S. B.

H024184 In re Jonathan B., et al; DFCS v. S. B.

Appeals number H023998 and number H024049 are dismissed.  
All other orders appealed from in appeals H023759, H023854, H023918, H024122 and H024184 including the termination of the mother's parental rights, are affirmed. (not published)  
(Bamattre-Manoukian, Acting P.J.; We concur: Elia, J., Mihara, J.)

Filed December 6, 2002

H023943 PEOPLE v. ABRAMS

The judgment is affirmed. (not published)  
(Rushing, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed December 6, 2002

H021478 PEOPLE v. WILLIS

The judgment is affirmed. (not published)  
(Rushing, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed December 6, 2002

H023945 PEOPLE v. MARABILLA

The trial court's order denying defendant's *Romero* motion is affirmed. (not published)

(Rushing, J.; We concur: Premo, Acting P.J., Wunderlich, J.)

Filed December 6, 2002

Sixth Appellate District

San Jose, California

Friday, December 6, 2002 (Continued)

H022410 PEOPLE v. TARABOCHIA

The judgment is affirmed. (not published)  
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)  
Filed December 6, 2002

H022669 PEOPLE v. FLORES

H024107 In re FLORES on Habeas Corpus

The judgment is reversed. The matter is remanded for the trial court to determine whether to reduce the mandatory restitution fine. With respect to defendant's habeas petition, let an order to show cause issue returnable before the Santa Clara County Superior Court. (not published)  
(Rushing, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)  
Filed December 6, 2002

H024361 In re SERINA G.; DFCS v. MARTHA L.

The judgment is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Wunderlich, J., Rushing, J.)  
Filed December 6, 2002

H023026 PEOPLE v. CARPIO

The order appealed from is affirmed. (not published)  
(Rushing, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)  
Filed December 6, 2002

H022333 PEOPLE v. BARNETT

The judgment is modified to reflect that the concurrent sentence for assault with a deadly weapon conviction is stayed pursuant to Penal Code section 654. As modified the judgment is affirmed. (not published)  
(Elia, J.; We concur: Premo, Acting P.J., Rushing, J.)  
Filed December 6, 2002

H024325 PEOPLE v. GORDON

The judgment is affirmed. (not published)  
(Rushing, J.; We concur: Premo, Acting P.J., Wunderlich, J.)  
Filed December 6, 2002

Sixth Appellate District

San Jose, California

Friday, December 6, 2002 (continued)

H023407 PEOPLE v. PORTER

The judgment is affirmed. (not published)  
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Elia, J.)  
Filed December 6, 2002

H023183 PEOPLE v. FARELL

The restitution judgment is reversed, and the matter is remanded for a formal restitution hearing at which defendant shall be given a reasonable opportunity to contest the restitution amount. (not published)  
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Rushing, J.)  
Filed December 6, 2002

H024069 PEOPLE v. JOHNSTON

The judgment is affirmed. (not published)  
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Elia, J.)  
Filed December 6, 2002

H020018 PEOPLE v. VO

The judgment is affirmed. (not published)  
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J., Premo, J.)  
Filed December 6, 2002

H019581 PEOPLE v. NGUYEN

The judgment is affirmed. (not published)  
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J., Premo, J.)  
Filed December 6, 2002

H019727 PEOPLE v. NGUYEN, et al.

The judgments are affirmed. (not published)  
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J., Premo, J.)  
Filed December 6, 2002